

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

MELLENDEZ, MICHAEL (Pro Se)

vs.

CIVIL ACTION NO. 2023-CV-00172SM

UNIVERSITY OF NEW HAMPSHIRE; Et. Al.

PLAINTIFF'S OBJECTION TO DEFENDANTS' MOTION TO SCHEDULE A STATUS CONFERENCE

Pursuant to Local Rule 7.1, FRCP Rule 15(a)(2), and the Fourteenth Amendment, Plaintiff Melendez respectfully moves for the Court to deny "Defendants' Motion to Schedule a Status Conference". Plaintiff Melendez supports this motion with the attached supporting memorandum, supporting documents, and the following 6 reasons:

1. Defendants' motion violates Local Rule 7.1(a)(2), "Every motion and objection shall be accompanied by a memorandum with citations to supporting authorities or a statement explaining why a memorandum is unnecessary". Defendants failed to provide the necessary memorandum or statement of explanation, making Defendant's motion invalid.
2. Defendant's motion is vague and prejudices Plaintiff Melendez. Defendants motion does not cite any legal authority or persuasive law. Defendants' motion makes several statements regarding the facts of the case, then cites Defendants' preferences as their authority to file a motion. Without the cited authority, Plaintiff Melendez is unable to have a reasonable opportunity to respond to Defendants' motion or participate in Defendants' requested hearing.
3. Defendants' hearing request to limit Plaintiff's complaint is a request for the Court to violate Plaintiff Melendez's Fourteenth Amendment right. Plaintiff has a Fourteenth Amendment right to access the court, which includes bringing claims of damages. Defendants

are requesting that the Court intentionally interfere with Plaintiff Melendez's access to the court, but fail to offer any legal statute or case law to support their request.

4. Pursuant to Rule 15(a)(2), "The court should freely give leave when justice so requires". Defendants fail to cite any legal basis as to why the Court should deviate from federal statute regarding Plaintiff Melendez's claims and Leave to Amend.
5. Defendants' requested hearing would cause unnecessary harm to Plaintiff Melendez. Plaintiff is severely disabled. Plaintiff's disability symptoms are significantly exacerbated when in public, even through virtual means. Defendants failed to provide a legal basis for the requested hearing, and as such, would unnecessarily subject Plaintiff Melendez to an environment that would inflict more mental and emotional damage on Plaintiff.
6. Defendants' request for a hearing violates Local Rule 7.1(c), "Any party filing a motion other than a dispositive motion shall certify to the court that a good faith attempt has been made to obtain concurrence in the relief sought". Defendants' statement made in their motion, "The undersigned counsel asked Plaintiff whether he would assent to this motion, and Plaintiff did not indicate his assent," is inappropriate, baseless, and a misrepresentation to the Court.

On Wednesday, October 3, 2023, Defendants sent their request for assent regarding the hearing (Defendants' 10/3/23 Email). On October 4, 2023, Plaintiff advised Defendants their request for assent was premature, as it was out of proper procedures (Plaintiff's Email). On October 4, 2023, Defendants agreed that the request was premature, and agreed to postpone the discussions regarding the assent (Defendants' 10/4/23 Email).


On Thursday, October 5, 2023, despite creating the agreement, Defendants filed their motion without conferring with Plaintiff. Defendants filing was a surprise to Plaintiff. Plaintiff Melendez never had an opportunity to discuss any of the matters stated above. Given Defense

counsel's experience and knowledge of outstanding matters, Defendants failed to, in good faith, attempt to obtain concurrence with Plaintiff before submitting a motion to the court.

CONCLUSION

Due to: Defendants' failure to provide legal authority; failure to attempt to obtain concurrence with Plaintiff; failure to address the outstanding, significant matters; Plaintiff's Fourteenth Amendment rights; and due to the damage the conference would place on Plaintiff Melendez unnecessarily, the Court should deny "Defendants' Motion to Schedule a Status Conference" in the interest of Justice.

Date: October 10, 2023

Signature:  /s/ Michael Melendez, pro se
Name: Michael Melendez
Address: 395 Mendon Road
Apt 12A
North Smithfield, RI 02896

MEMORANDUM OF LAW

Pursuant to LR 7.1(a)(2), every motion shall be accompanied by a memorandum with citations to supporting authorities or a statement explaining why a memorandum is unnecessary.

I have attached a supporting memorandum of law to this motion.

Date: October 10, 2023

Signature:  /s/ Michael Melendez, pro se
Name: Michael Melendez

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Plaintiff's Objection to Defendants' Motion to Schedule a Status


Conference was emailed to counsel for the defendants at:

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Date: October 10, 2023


Signature: /s/ Michael Melendez, pro se
Name: Michael Melendez



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Label 228, March 2016

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